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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,819	03/31/2004	Spanky A. Raymond	1842-0010	5056
28078 7590 07/18/2007 MAGINOT, MOORE & BECK, LLP CHASE TOWER 111 MONUMENT CIRCLE SUITE 3250 INDIANAPOLIS, IN 46204			EXAMINER WOODALL, NICHOLAS W	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 07/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,819

Applicant(s)

RAYMOND ET AL.

Examiner

Nicholas Woodall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on 04/24/2007.

Allowable Subject Matter

2. The indicated allowability of claims 15-19 is withdrawn in view of the newly discovered reference(s) to Person (U.S. 5,997,552). Rejections based on the newly cited reference(s) follow.

Drawings

3. The drawings were received on 04/24/2007. These drawings are acceptable.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8-13, 15, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 6,595,998) in view of Di Giovanni (U.S. Patent 4,478,220).

Regarding claim 15, Johnson discloses a device comprising a track assembly defining a channel from an introduction end to a discharge end and an advancement mechanism capable of sliding within the track assembly that is capable of being used on a wafer channel. The track assembly further includes a first track defining a wafer channel opening at the introduction end and a second track capable of being coupled to the first track defining a push channel (column 16 lines 25-51). Regarding claim 16,

Johnson discloses a device wherein the advancement mechanism includes a portion capable of sliding with the pusher channel and at least one finger projecting from the portion into the wafer channel. Regarding claim 11, Johnson discloses a device further comprising an advancement gun supporting the track assembly. The advancement gun includes a manually operable trigger coupled to the advancement mechanism.

Regarding claim 11, Johnson discloses a device wherein the advancement gun includes a housing and the trigger is pivotally mounted within the housing. Regarding claim 13, Johnson discloses a device wherein the advancement gun includes a linkage couple between the trigger and the advancement mechanism to translate the pivoting of the trigger to a linear movement of the advancement mechanism. Regarding claim 20, Johnson discloses a device further comprising a cartridge that is configured to carry a plurality of wafers. The cartridge is capable of being coupled to the track assembly so the wafers can enter the track assembly through the introduction end of the track assembly. Johnson fails to disclose the device including a means for preventing retrograde movement of a wafer within the channel of the track assembly (claim 15). Since claim 15 meets the three prong analysis for 35 U.S.C. 112 6th paragraph, which is related to means plus function, the "means for preventing retrograde movement of a wafer within the channel" must be construed towards the corresponding structure for providing the function as described in the specification. The examiner believes the only structure described in the specification for providing this function are the resilient prongs formed within the channel. Therefore, to meet the requirements of claim 15, the examiner must find the structure as described in the specification or any equivalents

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thereof. Di Giovanni teaches a device comprising a track assembly that further includes a plurality of resilient prong members formed along the upper and lower surfaces of the channel within the track assembly (claims 8-10 and 15; column 12 lines 22-68 and column 13 lines 1-42) in order to prevent backwards movement of the elements being moved through the device (column 13 lines 34-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Johnson with a plurality of resilient prong members formed along the upper and lower surfaces of the channel within the track assembly in view of Di Giovanni in order to prevent backwards movement of the elements being moved through the device.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 6,595,998) in view of Di Giovanni (U.S. Patent 4,478,220) further in view of Yoon (U.S. Patent 5,782,844).

Regarding claim 14, the combination of Johnson and Di Giovanni discloses the invention as claimed except for the advancement mechanism including a rack gear and the trigger including a clock gear arranged to cooperate with the rack gear of the advancement mechanism (claim 14). Yoon teaches a device comprising an advancement mechanism and a trigger wherein the advancement device includes a rack gear and the trigger includes a clock gear that cooperates with the rack gear of the advancement mechanism in order to translate the pivoting of the trigger to lateral movement of the advancement mechanism to push an inner member of the drive mechanism (column 7 lines 66-67, column 8 lines 1-68, column 9 lines 1-67, and column 10 lines 1-9). It would have been obvious to one having ordinary skill in the art

at the time the invention was made to manufacture the device of Johnson modified by Di Giovanni with the advancement mechanism including a rack gear and the trigger including a clock gear in view of Yoon in order to translate the pivoting of the trigger to lateral movement of the advancement mechanism in order to push an inner member of the drive mechanism.

7. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (U.S. Patent 6,595,998) in view of Di Giovanni (U.S. Patent 4,478,220) further in view of Yoon (U.S. Patent 5,782,844) further in view of Person (U.S. 5,997,552).

Regarding claims 17-19, the combination of Johnson, Di Giovanni, and Yoon disclose the invention as claimed except for the track assembly including a spring arm mounted in the element channel in order to allow an element to move into a pusher channel (column 8 lines 54-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the device of Johnson modified by Di Giovanni further modified by Yoon wherein the track assembly further includes a spring arm mounted in the element channel in view of Person in order to allow an element to move into a pusher channel.

Further regarding claim 17, the combination of Johnson, Di Giovanni, Yoon, and Person disclose a device wherein the pusher channel defines a discharge opening at the discharge end and the wafer channel communicates with the push channel adjacent the discharge end. Regarding claim 19, the combination of Johnson, Di Giovanni, Yoon, and Person disclose a device wherein the advancement mechanism includes a portion

capable of sliding with the pusher channel and at least one finger projecting from the portion into the wafer channel.

Response to Arguments

8. Applicant's arguments with respect to claims 8-20 have been considered but are moot in view of the new ground(s) of rejection. The examiner has presented new grounds of rejection as discussed above and has withdrawn previously indicated allowability of claims 15-19 as discussed above, which makes this office action non-final.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for cited references the examiner felt were relevant to the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is 571-272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NWW



EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER